

Department of Planning, Building and Code Enforcement

JOSEPH HORWEDEL, DIRECTOR

SUMMARY ABATEMENT ORDER AND NOTICE OF HEARING

**BANK OF AMERICA
1800 TAPO CANYON ROAD
SIMI VALLEY, CA 93063**

AGENDA ITEM:	4a
HEARING DATE	December 12, 2013
HEARING TIME:	6:30 p.m.
HEARING PLACE:	City Hall, Council Chambers 200 E Santa Clara Street San Jose, CA 95113

**RE: 1376 Essex Way, San Jose, CA 9511
APN: 305-07-009**

TO THE PROPERTY OWNER AND ALL OTHER PERSONS HAVING ANY LEGAL INTEREST IN THE ABOVE DESCRIBED PROPERTY LOCATED IN THE CITY OF SAN JOSE:

Please be advised that after inspections of the above described property by field investigators of the Code Enforcement Division, it has been determined that the property was found to be imminently dangerous based on the following conditions: hole in front door and unable to be secured. Code Enforcement Division found it necessary to secure the front door to prevent unauthorized entry and remove graffiti from the property..

The costs of the abatement actions, including the total cost of the actions taken and any allowable inspection fees, will be invoiced to the property owner. The invoice shall be paid within 30 days from the date that the invoice is mailed. Failure to pay the invoice amount may result in the imposition of an assessment and a lien against the property in accordance with San Jose Municipal Code Section 17.02.350.

Any person having any record, title or legal interest in the property may appear and protest the abatement action taken as identified in this Notice of Hearing at the time and place specified above. Please be advised that pursuant to San Jose Municipal Code Section 17.02.120, the City Manager may file in the Office of the County Recorder a certificate declaring the property a Public Nuisance. Failure to file a written protest prior to the hearing date or to appear at such hearing will constitute a failure to exhaust the administrative remedies.

Should you have any questions regarding this matter, please contact Loren Due, Code Enforcement Inspector, at (408) 535-7828.


Diane Buchanan, Acting Code Enforcement Official
Planning, Building and Code Enforcement

Enclosures

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SIMI VALLEY, CA 93063**

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200 E Santa Clara Street
San Jose, CA 95113**

**ADDRESS: 1376 Essex Way, San Jose, CA 95117
APN: 305-07-009**

INSPECTION REPORT

Status of Property

The multi-family residence located at 1376 Essex Way, San Jose, CA 95122 ("Subject Property") has four units. There was a fire at the subject property in January 2007 that left unit #1 damaged and vacant. Code Enforcement received numerous complaints from neighborhood residents regarding the unit being unsecured, and tagged with gang graffiti. Code Enforcement has imposed fines on the property owner for graffiti. A vehicle was set on fire in front of the building in August 2013. Neighbors are worried another fire will occur from people using the unsecured abandoned unit. The City of San Jose contracted with Tucker Construction to paint over the graffiti and placed plywood over the opening in the front door. The plywood was secured to the front door with screws to prevent unauthorized entry.

San Jose Municipal Code Violations

17.72.030 Prohibition of Property Blight

- A. No person, whether as owner, agent, manager, operator, lessee, tenant, sublessee, or occupant in possession of a property, shall maintain a blighted property or cause or permit property to be maintained as a blighted property.
- B. No person, whether as owner, agent, manager, operator, lessee, sublessee, tenant or occupant of a property, shall take any action or allow any action to be taken at that property in violation of any provision of this chapter or any order issued pursuant to the provisions of this chapter.

9.57.300 Real and personal property defaced with graffiti.

No person shall maintain graffiti that has been placed upon, or allow graffiti to remain on, any real property, including but not limited to any building or structure, nor on any motor vehicle, boat, trailer, or other personal property located on the real property, when the graffiti is visible from a street or from any other public or private property.

17.72.505 Unsecured building or structure.

Any building or structure that is unsecured constitutes property blight. A building or structure is unsecured when either of the following conditions exist:

- A. The building or structure is inhabited, occupied or used without the consent of the owner or the agent of the owner; or
- B. Unauthorized persons can readily gain entry to the building or structure without the consent of the owner or the agent of the owner.

Front door was broken and unable to be secured.

Chronology

07/29/13 Code Enforcement Inspector Due received a phone call stating unit #1 of 1376 Essex Way was unsecured.

On the same day Inspector Due met CEI Muraoka onsite and conducted an inspection. The front door was open and the rear sliding door unlocked. Inspector Due talked to the tenant in unit #2 and asked if they had seen anyone in the unit. The tenant stated they were away on vacation and did not know if people were accessing the unit.

07/30/13 Acting Supervisor Roger Beaudoin researched the status of the property. NationStar Mortgage was found to be the responsible party. Supervisor Beaudoin contacted the REO Department and they reported the property was not on their list. Supervisor Beaudoin was transferred to the Foreclosure Department where he informed them the unit was vacant and unsecured. Supervisor Beaudoin stated the building would be secured at their expense if not done immediately.

07/30/13 Code Enforcement Inspector Due conducted an inspection of the unit which showed the unit still unsecured. Inspector Due put a piece of wood in the sliding door rail to block it from opening and then screwed the front door/plywood shut. The rest of the unit was secured.

08/22/13 Code Enforcement Inspector Due called Lisa Saunders with SafeGaurd 1800.852.8306x8484 inquired about the status of the property. Inspector Due also stated the unit had miscellaneous debris and graffiti. Lisa stated that the property may be in foreclosure and if so they can not touch the property. She stated that she would have either Pauline or Iqua contact the inspector with the status of the property.

08/26/13 Code Enforcement Inspector Due conducted an inspection of the unit and it was secured. There was one board that was loose but the building appeared to be secure.

On the same day Inspector Due called SafeGuard Properties and spoke to Elisabeth in the Code Compliance Department. Elisabeth stated that a work order #131297460 has been sent in and they are awaiting final bids to come in before choosing a contractor. She believed the whole process should be complete by 8/29/13. I asked for someone to call me with an estimated time of completion once the bid has been accepted.

08/27/13 Code Enforcement Inspector Due drove by the site and observed miscellaneous debris in the alleyway and graffiti on the front door. One photograph of the alleyway was taken of the Subject Property. See true and correct photographs attached hereto as **EXHIBIT A**.

09/12/13 Code Enforcement Inspector Due called SafeGuard Properties 1.800.852.8306 ext 8484 and talked to Chelsea Murphy who had been reassigned the case. Inspector Due asked about work order #131297460. Chelsea stated they were waiting on an inspection to verify the property was vacant and received the report 9/6/13 and will start the process ASAP.

09/19/13 Code Enforcement Inspector Due received a phone call from a Case Person stating the front door was kicked in and there is an opening a small child could fit through.

Inspector Due conducted an onsite inspection and observed the front door had a hole and graffiti covered the front door. Two (2) photographs were taken of the Subject Property. See true and correct photographs attached hereto as **EXHIBIT B**.

During the inspection Inspector Due spoke to contractor, Roger Valdez, hired by SafeGuard Properties to remove miscellaneous debris from the property. Inspector Due asked Mr. Valdez if he was going to remove the graffiti and cover the hole. Mr. Valdez stated he did not know about the hole in the door and forgot about the graffiti. He stated he did not have paint in his vehicle and would have to come back for those items.

09/20/13 Code Enforcement Inspector Due conducted the inspection of the Subject Property and observed that unit #1 was still unsecured. There was a hole in the front door making the unit accessible.

On that same day, Inspector Due spoke to Ashley Debose with SafeGuard Properties 1.800.852.8306 ext 8484. Inspector Due advised that unit #1 was unsecured and needed to be secured within twenty-four (24) hours. Ashley Debose advised Inspector Due that there was no guarantee the home would be secured within twenty-four (24) hours. Inspector Due advised that the City of San Jose would secure the unit as necessary to prevent unauthorized entry on September 23, 2013. Inspector Due also informed Ashley Debose that a precite letter was sent in regards to the graffiti.

09/23/13 Code Enforcement Inspector Due conducted an inspection and observed a hole in the front door. Inspector Due called Tucker Construction to secure the unit and remove the graffiti. Six (6) photographs were taken of the Subject Property. See true and correct photographs attached hereto as **EXHIBIT C**.

CODE ENFORCEMENT STAFF RECOMMENDATIONS

Staff recommends that the San Jose Appeals Hearing Board uphold the abatement actions taken by the City of San Jose to secure the Subject Property to prevent unauthorized entry.

ATTESTING STATEMENT OF CODE ENFORCEMENT INSPECTOR

1. I am the Code Enforcement Inspector for the City of San Jose assigned to investigate the potential Municipal Code Violations at 1376 Essex Way, San Jose, CA 95117, that are the subject of this Inspection Report.
2. I have prepared and reviewed this Inspection Report and can attest to the truth of the matters stated above.



Loren Due, 084E
Code Enforcement Inspector II

Exhibit A

1376 Essex Way

August 27, 2013

Couch, mattress and miscellaneous debris in alleyway

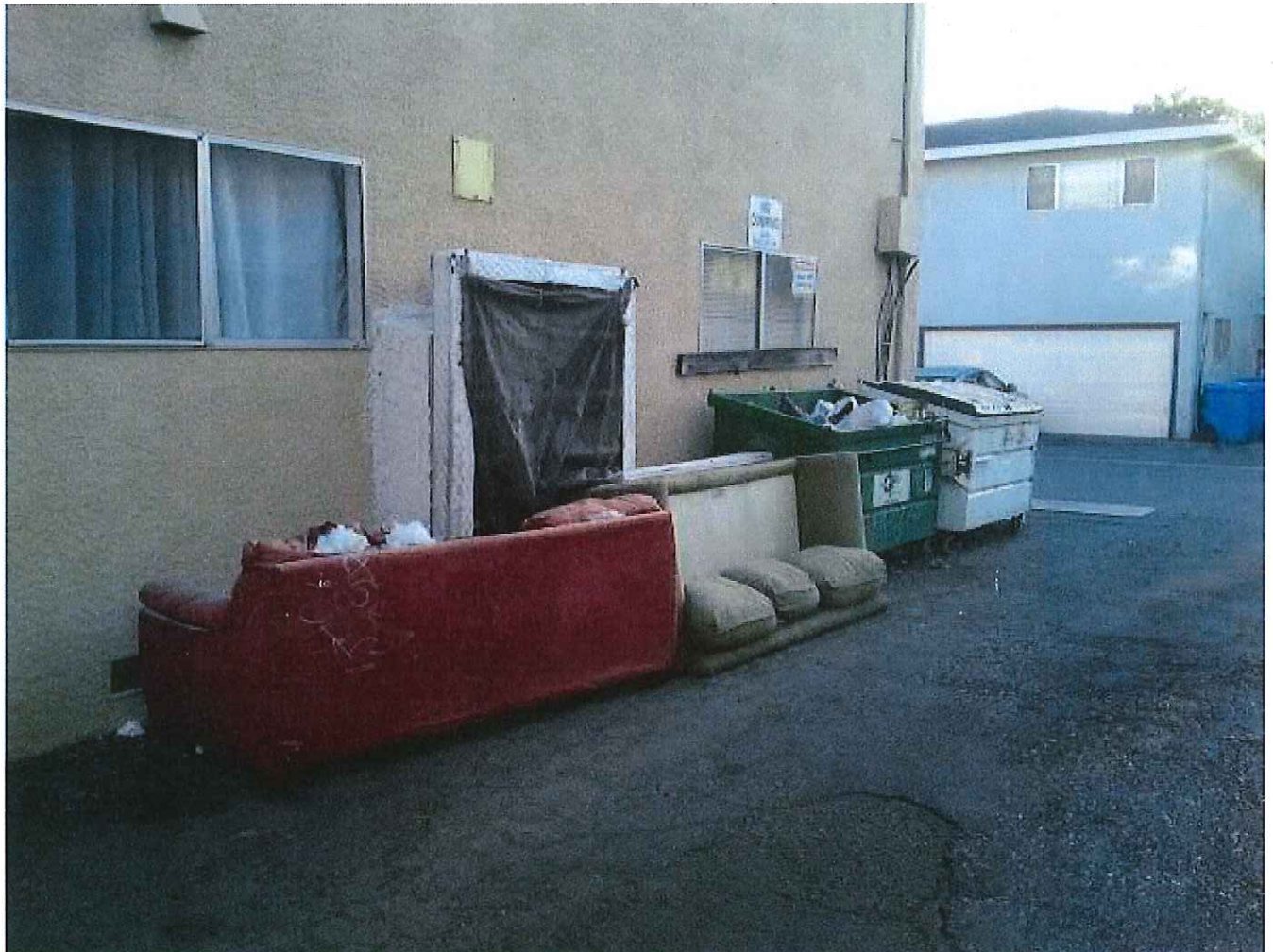


Exhibit B

1376 Essex Way

September 19, 2013

Couch, mattress and miscellaneous debris in alleyway removed by Property Pros



1376 Essex Way

September 19, 2013

Graffiti and hole in front door



Exhibit C

1376 Essex Way

September 23, 2013

Graffiti and hole in front door



1376 Essex Way

September 23, 2013

Tucker Construction



1376 Essex Way

September 23, 2013

Securing the front door



1376 Essex Way

September 23, 2013

Front door secured after board up



1376 Essex Way

September 23, 2013

Painting Graffiti



1376 Essex Way

September 23, 2013

Graffiti removed and front door secured

